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**STANDARD SERVICE TERMS AND CONDITIONS**

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**BACKGROUND:**

Fidelis Contract Services Ltd (“**Fidelis**”) provides commercial cleaning, waste management and facility management services to business clients. Fidelis has reasonable skill, knowledge and experience in that field. These Terms and Conditions shall apply to the provision of services by Fidelis to its clients.

**1. Definitions and Interpretation**

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

<b>“Agreement”</b>	means the agreement entered into by Fidelis and the Client consisting of these Terms and Conditions, the Quote, the Order and Confirmation of the Order which shall govern provision of the Services;
<b>“Business Day”</b>	means, any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in the United Kingdom;
<b>“Client”</b>	means the party procuring the Services from Fidelis who shall be identified in the Agreement;
<b>“Commencement Date”</b>	means the date on which provision of the Services will commence, as such date is set out in the Quote or otherwise as agreed between the Client and Fidelis;
<b>“Confidential Information”</b>	means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with the Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);
<b>“Effective Date”</b>	has the meaning set out in clause 2.4;
<b>“Fees”</b>	means any and all sums due under the Agreement from the Client to React, as specified in the Quote;
<b>“Hazardous Substances”</b>	means any chemical, material, or substance that poses a risk to health, safety, or the environment, including cleaning chemicals, solvents and any contaminative or potentially contaminative materials;

- Intellectual Property Rights** means copyright, patents, know-how, trade secrets, trademarks, trade names, design rights, rights in get-up, rights in goodwill, rights in software, rights in Confidential Information, rights to invention, rights to sue for passing off, domain names and all other intellectual property rights and similar rights and, in each case:
- a) whether registered or not;
  - b) including any applications to protect or register such rights;
  - c) including all renewals and extensions of such rights or applications;
  - d) whether vested, contingent or future;
  - e) to which the relevant party is or may be entitled; and
  - f) in whichever part of the world existing;
- “Order”** means the Client’s order for the Services to be provided by Fidelis which shall take the form of either the Client’s acceptance of the Quote or (subject to clause 2.5) the Client’s purchase order form, as the case may be.
- “Quote”** means Fidelis’ quotation for the Services as provided to the Client.
- “Services”** means the services to be provided by Fidelis to the Client in accordance with Clause 3 of the Agreement, as fully defined in the Agreement, and subject to the terms and conditions of the Agreement.
- 1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:
- 1.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or similar means (including email but excluding fax);
  - 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
  - 1.2.3 “these Terms and Conditions” is a reference to these Terms and Conditions as amended or supplemented at the relevant time;
  - 1.2.4 a Clause or paragraph is a reference to a Clause of these Terms and Conditions or to a Clause of the Agreement, as appropriate; and
  - 1.2.5 a "Party" or the "Parties" refer to the parties to the Agreement.
- 1.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 1.4 Words imparting the singular number shall include the plural and vice versa.
- 1.5 References to any gender shall include the other gender.
- 1.6 References to persons shall include corporations.

## 2. **Basis of Contract**

- 2.1 The Client should ensure that all relevant details are provided in a timely manner to permit Fidelis to fully assess the scope of the new instruction for Services (e.g. notification of any specific hazards, the need to work at height).
- 2.2 Based on the scope, Fidelis will provide a Quote for Fees for the Services requested by the Client. This Quote will constitute an invitation to treat and shall be valid until such time as the Client places an Order or the expiry of 30 days from receipt of the quote, whichever is earlier. Fidelis reserves the right to amend the Quote if further information provided by the Client materially alters the scope of the works or services.
- 2.3 In the event that the Client wishes to accept the Quote, it shall submit an Order. The submission of an Order amounts to an offer. The Order shall only be deemed to be accepted, and a contract shall be formed, when Fidelis issues written confirmation of the order ("**Confirmation of the Order**").
- 2.4 The Agreement will come into force, and be legally binding on the Client and Fidelis, with effect from the point at which, and on the date on which, Fidelis issues the Confirmation of the Order (the "**Effective Date**"). In the event that the Commencement Date is not set out in the Quotation, the parties shall agree the Commencement Date promptly following the formation of the Agreement.
- 2.5 Where an Order is created by way of the Client's purchase order form, acceptance of the Client's purchase order form by Fidelis does not constitute acceptance of any terms of purchase, terms of business or other terms that may be included on, or referred to in, or which the Client otherwise seeks to incorporate into, such purchase order form ("**PO Terms**"). Any such PO Terms are specifically excluded from the Agreement and shall not apply to the performance of the Services, and these Terms and Conditions shall continue to apply to the Agreement to the exclusion of any such PO Terms. By submitting an Order, the Client acknowledges and accepts the foregoing and waives any right to rely on the PO Terms.
- 2.6 Marketing and other promotional material relating to the Services are illustrative only and do not form part of the Agreement.

## 3. **Provision of the Services**

- 3.1 With effect from the Commencement Date, Fidelis shall, provide the Services to the Client with reasonable skill and care, commensurate with prevailing standards in the Industrial Cleaning sector in the United Kingdom.
- 3.2 Fidelis shall act in accordance with all reasonable instructions given to it by the Client provided such instructions are compatible with the specification of Services provided in the Agreement.
- 3.3 Fidelis shall be responsible for ensuring that it complies with all statutes, regulations, byelaws, standards, codes of conduct and any other rules relevant to the provision of the Services.
- 3.4 Fidelis may, in relation to certain specified matters related to the Services, act on the Client's behalf. Such matters shall not be set out in the Agreement but shall be agreed in writing between the Parties as they arise from time to time. In the event of any such matters, Clause 6 shall apply.
- 3.5 Fidelis shall provide its own equipment and cleaning products (including any Hazardous Substances) for the purposes of carrying out the Services and shall, if left

onsite at any time outside after the hours in which the Services are being performed, retain ownership of any such equipment or cleaning products.

- 3.6 Fidelis shall use all reasonable endeavours to accommodate any reasonable changes in the Services that may be requested by the Client, subject to the Client's acceptance of any related reasonable changes to the Fees that may be due as a result of such changes.
- 3.7 Fidelis shall use all reasonable endeavours to meet any agreed dates for performance, but such dates shall be estimates only and time shall not be of the essence for performance of the Services.

#### **4. Client's Obligations**

- 4.1 In order that Fidelis is able to perform the agreed Services, the Client will ensure that:
  - 4.1.1 Fidelis is provided with all pertinent information that is necessary for the provision of the Services prior to the performance of the Services;
  - 4.1.2 The premises where the Services are to be performed are safe and that all necessary Fidelis personnel are made aware of any potential health and safety issues or hazards;
  - 4.1.3 There is an adequate power and water supply, as required;
  - 4.1.4 Fidelis personnel are given access to the premises and other facilities as required and are supplied with contact details for a representative on site;
  - 4.1.5 Fidelis personnel have the cooperation of the Client's personnel including the prompt provision of any instructions, decision, approval or consent reasonable required by Fidelis in order to continue with the provision of the Services;
  - 4.1.6 Suitable, safe and secure accommodation for such equipment and cleaning substances as Fidelis deems necessary to leave on the Client's premises is provided free of charge. Any such equipment and cleaning substances shall remain the property of Fidelis and the Client shall hold the same as bailee. Without limiting the foregoing, the Client shall take reasonable care to prevent loss or damage to any such equipment and cleaning substances as may be left at the Client's premises from time to time and allow Fidelis personnel to access such equipment and cleaning substances at any time, including upon termination or expiry of the Agreement;
  - 4.1.7 All applicable laws, including health and safety laws, relevant to the site are complied with.
  - 4.1.8 If any consents, licences or other permissions are needed from any third parties such as landlords, planning authorities, local authorities or similar, it shall be the Client's responsibility to obtain the same in advance of the provision of the Services (or the relevant part thereof).
  - 4.1.9 If the nature of the Services requires that Fidelis has access to the Client's home or any other location, access to which is lawfully controlled by the Client, the Client shall ensure that Fidelis has access to the same at the times to be agreed between Fidelis and the Client as required.
- 4.2 The Client may, from time to time, issue reasonable instructions to Fidelis in relation to Fidelis' provision of the Services. Any such instructions should be compatible with the specification of the Services provided in the Agreement.

- 4.3 Any delay or failure in the provision of the Services resulting from the Client's failure or delay in complying with any of the provisions of this Clause 4 ("**Default**") shall not be the responsibility or fault of Fidelis and:
- 4.3.1 without limiting or affecting any other right or remedy available, Fidelis shall have the right to suspend performance of the Services until the Client remedies the Default;
  - 4.3.2 Fidelis shall be entitled to rely on the Default to relieve it from the performance of any of its obligations in each case to the extent the Default prevents or delays its performance of any of its obligations;
  - 4.3.3 Fidelis shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from Fidelis' failure or delay to perform the Services; and
  - 4.3.4 The Client shall reimburse Fidelis on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from the Default.
- 4.4 For the purposes of Clause 4.3, Default shall include circumstances where Fidelis cannot perform the Services because the Client has failed to provide access to the premises.

## 5. **Fees, Payment and Records**

- 5.1 The Fees for a job will be based on Fidelis' assessment of the number of hours required to perform the job. The Fees will incorporate any particular skills required, as well as materials, equipment and waste disposal costs.
- 5.2 Any change in the scope of the work as originally assessed may necessitate additional Fees being chargeable.
- 5.3 Unless otherwise agreed, Fidelis shall invoice the Client for Fees due on or before the Commencement Date. The Client shall pay each invoice within 28 days of receipt of the invoice.
- 5.4 Fidelis may increase the Fees at any time during the term of the Agreement to reflect any additional costs incurred by Fidelis as a result of any change in applicable law, regulation, regulatory requirement or rate of tax that comes into effect after the Commencement Date, including without limitation any increase in the rates of any employer National Insurance contributions. Any increase under this Clause 5.4 shall be limited to the additional costs incurred by Fidelis as a consequence of such change in law or regulation or rates. Fidelis shall provide the Client with reasonable advance written notice of any such increase, and such notice shall specify the effective date of such increase.
- 5.5 All payments required to be made pursuant to the Agreement by either Party shall be made in GBP in cleared funds to such bank in as the receiving Party may from time to time nominate, without any set-off, withholding or deduction except such amount (if any) of tax as that Party is required to deduct or withhold by law.
- 5.6 Where any payment pursuant to the Agreement is required to be made on a day that is not a Business Day, it may be made on the next following Business Day.
- 5.7 Without prejudice to Clause 12.5.1 of these Terms and Conditions, any sums which remain unpaid following the expiry of the period set out in Clause 5.3 of these Terms and Conditions shall incur interest on a daily basis at 4% above the base rate of HSBC

bank from time to time until payment is made in full of any such outstanding sums.

- 5.8 Without prejudice to Clauses 5.7 and 12.5.1, Fidelis shall have the right at its discretion to suspend any and all ongoing Services being provided to the Client where any sums due to Fidelis from the Client remain unpaid immediately following the expiry of the period set out in Clause 5.3 and until payment of such outstanding sums is made in full.
- 5.9 Each Party shall:
- 5.9.1 keep, or procure that there are kept, such records and books of account as are necessary to enable the amount of any sums payable pursuant to the Agreement to be accurately calculated;
- 5.9.2 at the reasonable request of the other Party, allow that Party or its agent to inspect those records and books of account and, to the extent that they relate to the calculation of those sums, to take copies of them.
- 5.10 In the event the client cancels the provision of any agreed services with less than 48 hours' notice, Fidelis shall be entitled to charge a cancellation fee of 50% of the original quoted Fee for the service.
- 5.11 The Fees are exclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.

## 6. **Liability, Indemnity and Insurance**

- 6.1 Fidelis shall ensure that it has in place at all times public liability insurance to a value of £5m of cover. The limits and exclusions in this clause reflect the insurance cover Fidelis has been able to arrange and the Client is responsible for making its own arrangements for the insurance of any excess loss.
- 6.2 Nothing in these Terms and Conditions shall limit or exclude any liability which cannot legally be limited including but not limited to death or personal injury caused by negligence.
- 6.3 Subject to Clause 6.2, Fidelis shall in no circumstances whatsoever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
- 6.3.1 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses;
- 6.3.2 any: (i) loss of profit; (ii) loss of sales or business; (iii) loss of agreements or contracts; (iv) loss of anticipated savings; (v) loss of use or corruption or software, data or information; or (vi) loss of or damage to goodwill; or
- 6.3.3 any loss, damage or injury arising from: (i) materials, plant or equipment supplied by the Client, its employees, subcontractors or agents; (ii) the breaking or disintegration of any previously cracked, defective or broken parts of the property fixtures or fittings of the Client or (iii) security and alarming of the Client's premises which for the avoidance of doubt shall remain the Client's sole responsibility.
- 6.4 Fidelis' total liability for any loss or damage caused as a result of its negligence or breach of the Agreement shall be limited at all times to the total amount of Fees paid by the Client in the relevant 12 month period ("the **Cap**").

- 6.5 Fidelis shall not be liable for any loss or damage suffered by the Client that results from the Client's failure to follow any instructions given by Fidelis or which results directly or indirectly from a Default.
- 6.6 The Client shall indemnify Fidelis against any costs, liability, damages, loss, claims or proceedings arising from loss or damage to any equipment (including that belonging to any third parties appointed by Fidelis) caused by the Client or its agents or employees.

**7. Quality**

- 7.1 Fidelis shall all reasonable endeavours to ensure that the Services are provided with a reasonable level of skill and care and to the standard originally detailed in the Quote.
- 7.2 On completion of the work, a Client representative with appropriate authority shall sign off the Job Sheet that the Fidelis personnel shall provide. This signature will represent the Client's satisfaction with the Services performed and the completion of the job.
- 7.3 In the event that the Client alleges that Fidelis has failed to perform the Services with reasonable care and skill, the Client must report such allegation of failure by telephone to Fidelis within 48 hours and provide Fidelis with written notice of the alleged failure within 7 days of completion of the Services. On receipt of written notice by the Client, Fidelis shall endeavour to carry out any and all reasonably necessary remedial action at no additional cost to the Client. If the Client fails to notify Fidelis by both telephone and written notice, then the Services shall be deemed accepted and the Client shall have no rights to remedial action in respect of this Clause 7.

**8. Storage of Hazardous Substances**

- 8.1 The Client shall make available to Fidelis suitable locked onsite storage for any Hazardous Substances used in the provision of the Services. The Client shall ensure that the designated storage area is equipped with all things reasonably necessary to prevent unauthorised access, environmental contamination and accidental release.
- 8.2 The Client shall bear responsibility for ensuring the onsite storage is locked and secured when not in use and Fidelis shall have no liability in respect of any failure to secure the onsite storage from unauthorised access.
- 8.3 Fidelis shall ensure that:
- 8.3.1 all Hazardous Substances at the onsite storage are stored in appropriate containers; and
  - 8.3.2 the use and storage of Hazardous Substances onsite shall comply with the Client's health and safety policy, environmental policy and the applicable industry standards.
- 8.4 On completion of the Services, Fidelis will remove the Hazardous Substances from the site as soon as reasonably practicable.
- 8.5 Without prejudice to the provision of Clause 6, Fidelis shall not be liable for any claims, damages or losses arising from improper storage, handling or use of Hazardous Substances in so far that such claims, damages or losses did not arise from Fidelis' own negligence.

**9. Confidentiality**

- 9.1 Each Party undertakes that, except as provided by Clause 9.2 of these Terms and Conditions or as authorised in writing by the other Party, it shall, at all times during the continuance of the Agreement and for two years after its termination:
- 9.1.1 keep confidential all Confidential Information;
  - 9.1.2 not disclose any Confidential Information to any other party;
  - 9.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of the Agreement;
  - 9.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
  - 9.1.5 ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of Clauses 9.1.1 to 9.1.4 of these Terms and Conditions.
- 9.2 Either Party may:
- 9.2.1 disclose any Confidential Information to:
    - 9.2.1.1 any sub-contractor or supplier of that Party;
    - 9.2.1.2 any governmental or other authority or regulatory body; or
    - 9.2.1.3 any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;
  - 9.2.2 to such extent only as is necessary for the purposes contemplated by the Agreement (including, but not limited to, the provision of the Services), or as required by law regulation or order of a court of competent jurisdiction. In each case that Party shall first inform the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body under Clause 9.2.1.2 or any employee or officer of any such body) obtaining and submitting to the other Party a written confidentiality undertaking from the party in question. Such undertaking should be as nearly as practicable in the terms of Clause 9 of these Terms and Conditions, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and
  - 9.2.3 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of the Agreement, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information that is not public knowledge.
- 9.3 Where a Party is required by law, regulation or order of a court of competent jurisdiction to disclose Confidential information it must (without prejudice to its obligations in Clause 9.2.2) immediately notify the other Party in writing of any request or requirement for disclosure and of all relevant surrounding circumstances. If the Party required to disclose is unable so to notify the other Party before such disclosure is required, it will notify the other Party immediately after the disclosure has been made. The Party required to disclose shall use its best endeavours to resist any requirement for disclosure and to maintain the confidentiality of any Confidential Information.

- 9.4 The provisions of Clause 9 of these Terms and Conditions shall continue in force in accordance with their terms, notwithstanding the termination of the Agreement for any reason.

**10. Intellectual Property Rights**

- 10.1 No Intellectual Property Rights of either party are transferred or licensed as a result of the Contract, except as set out in this Clause 10.
- 10.2 Fidelis (or its third party licensor) shall retain and own all Intellectual Property Rights in the Services and grants the Client a non-exclusive, non-transferable, non-sublicensable licence to use such Intellectual Property Rights to the extent reasonably necessary for the Client to receive, and enjoy the benefit of, the Services in accordance with the provisions of the Contract.

**11. Force Majeure**

- 11.1 No Party to the Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, failure of supplies of fuel, water, transport, equipment or telecommunications service, or material required for performance of the Agreement, strike, lockout or boycott or other industrial action including those involving the Supplier's or its suppliers' workforce, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.
- 11.2 In the event that a Party to the Agreement cannot perform their obligations hereunder as a result of Force Majeure for a period of up to 3 months from the date the of commencement of Force Majeure, , the other Party may at its discretion terminate the Agreement by written notice at the end of that period. In the event of such termination, the Parties shall agree upon a fair and reasonable payment for all Services provided up to the date of termination. Such payment shall take into account any prior contractual commitments entered into in reliance on the performance of the Agreement.

**12. Term and Termination**

- 12.1 The Agreement shall come into force on the Effective Date.
- 12.2 The Quote will specify whether the Agreement is for the performance of ongoing services or the performance of a specific, one-off task.
- 12.3 If the Agreement is for the performance of ongoing services, the Agreement shall continue, subject to termination in accordance with any express right of termination set out in these Terms and Conditions, for a minimum term of 3 years ("**Initial Term**"). Upon the expiry of the Initial Term, the Agreement shall automatically renew for successive terms of 1 year (each a "**Renewal Term**") unless either party has given no less than 90 days written notice to terminate the Agreement to the other party, such notice to expire either upon the end of the Initial Term or the end of the then Renewal Term (as the case may be), subject to any other express right of termination set out in these Terms and Conditions..
- 12.4 If the Agreement is for the performance of a specific, one-off task, this Agreement shall continue, subject to termination in accordance with any express right of termination

set out in these Terms and Conditions, until the completion of such task, whereupon the Agreement shall terminate automatically.

- 12.5 Either Party may immediately terminate the Agreement by giving written notice to the other Party if:
- 12.5.1 any sum owing to that Party by the other Party under any of the provisions of the Agreement is not paid within 30 Business Days of the due date for payment;
  - 12.5.2 the other Party commits a material breach of any of the provisions the Agreement and such breach is not remediable;
  - 12.5.3 the other Party commits any other breach of any of the provisions of the Agreement and, if the breach is capable of remedy, fails to remedy it within 14 Business Days after being given written notice giving full particulars of the breach and requiring it to be remedied;
  - 12.5.4 an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;
  - 12.5.5 the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
  - 12.5.6 the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under the Agreement);
  - 12.5.7 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;
  - 12.5.8 the other Party ceases, or threatens to cease, to carry on business; or
  - 12.5.9 control of the other Party is acquired by any person or connected persons not having control of that other Party on the date of the Agreement. For the purposes of this Clause 12.5.9, "control" and "connected persons" shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.
- 12.6 For the purposes of sub-Clause 12.5.3, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 12.7 The rights to terminate the Agreement shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

### 13. **Effects of Termination**

Upon the termination of the Agreement for any reason:

- 13.1 any sum owing by either Party to the other under any of the provisions of the Agreement shall become immediately due and payable;
- 13.2 all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Agreement shall remain in full force and effect;
- 13.3 termination shall not affect or prejudice any right to damages or other remedy which

the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of the Agreement which existed at or before the date of termination;

13.4 subject as provided in Clause 12 of these Terms and Conditions (and except in respect of any accrued rights) neither Party shall be under any further obligation to the other; and

13.5 each Party shall (except to the extent referred to in Clause 9 of these Terms and Conditions) immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information.

#### 14. **Data Processing**

Fidelis shall process the Client's data in accordance with their privacy policy which is available:

- a) on request from [dpo@reactsc.co.uk](mailto:dpo@reactsc.co.uk); and
- b) at [www.fidelisgroup.co.uk](http://www.fidelisgroup.co.uk)

#### 15. **TUPE**

For the purposes of this Clause 15, the following definitions shall apply:

<b>"Affiliates"</b>	means any entity that directly or indirectly has beneficial ownership of 51% or more of the issued share capital of a company, or is beneficially owned by, or is under common control with another company.
<b>"Employee(s)"</b>	means any employee (as defined in the TUPE Regulations) of the Client or of any Previous Supplier who is assigned to an organised grouping whose principal purpose is the performance of the Services (or services equivalent to the Services);
<b>"Employment Costs"</b>	means all costs associated with the employment of a person including all pay, benefits, PAYE payments, national insurance contributions, pension contributions;
<b>"Employment Liability"</b>	means all statutory, contractual or other legal liabilities and any demands, actions, proceedings, award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation, and any expenses and legal costs on an indemnity basis;
<b>"Employee Liabilities Information"</b>	means an up to date and accurate list containing the information listed in regulation 11(2) of the TUPE Regulations for

each individual;

**“Previous Supplier”**

means any supplier or contractor who is engaged by or on behalf of the Client to perform the Services (or services equivalent to the Services) in the period prior to the Commencement Date;

**“TUPE Regulations”**

means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended, re-enacted or extended from time to time).

- 15.1 The parties agree that the commencement of the Services may constitute a service provision change as defined in regulation 3(1)(b) of the TUPE Regulations. Where this applies, the employment of the Employees shall transfer to Fidelis on the Commencement Date pursuant to the TUPE Regulations.
- 15.2 Subject to any obligations under applicable data protection legislation, the Client will provide Fidelis the Employee Liability Information in respect of the Employees no later than 28 days prior to the Commencement Date and will notify Fidelis in writing of any changes to the Employee Liability Information occurring prior to the Commencement Date within 3 Business Days of becoming aware of them.
- 15.3 The Client shall be responsible for and shall indemnify and keep indemnified Fidelis and its Affiliates in full against:
- 15.3.1 any Employment Liabilities and Employment Costs arising out of or in connection with:
    - 15.3.1.1 the employment or engagement of the Employees or any other person; or
    - 15.3.1.2 the termination of the employment or engagement of any person;in each case by the Client or its Affiliates during the period prior to the Commencement Date;
  - 15.3.2 any failure by the Client or any of its Affiliates to comply with its obligations under the TUPE Regulations;
  - 15.3.3 any losses (including without limitation Employment Liabilities and Employment Costs) arising out of or in connection with any claim made against Fidelis or any Affiliate by any person who claims to have been an employee of the Client or of any Previous Supplier and that their employment transferred to Fidelis on commencement of the Services pursuant to the TUPE Regulations to the extent that such person is not identified in the Employee Liabilities Information; and
  - 15.3.4 any losses (including without limitation Employment Liabilities and Employment Costs) arising out of or in connection with any error or omission in the Employee Liabilities Information.
- 15.4 In the event the Agreement expires or is terminated for any reason in circumstances where the TUPE Regulations do not apply, the Client shall be solely responsible for, and shall indemnify and keep indemnified Fidelis and its Affiliates in full against any



costs, liabilities (statutory, contractual or otherwise), demands, actions, proceedings, awards, compensation, damages, tribunal awards, fines, losses, orders, penalties, disbursements, settlement payments, and costs and expenses (including legal costs) arising out of or in connection with the termination of the employment or engagement of any person who was engaged in the provision of the Services immediately prior to such expiry or termination of the Agreement, including without limitation redundancy and other costs. The foregoing shall not apply to the extent (and only to the extent) that, upon such expiry or termination, Fidelis redeploys or otherwise engages such person in the provision of equivalent services for the benefit of any of its other clients.

**16. No Waiver**

No failure or delay by either Party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

**17. Further Assurance**

Each Party shall execute and do all such further deeds, documents and things as may be necessary to carry the provisions of the Agreement into full force and effect.

**18. Costs**

Subject to any provisions to the contrary each Party shall pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of the Agreement.

**19. Set-Off**

Neither Party shall be entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under the Agreement or any other agreement at any time.

**20. Assignment and Sub-Contracting**

20.1 Fidelis may assign, novate, sub-licence or otherwise transfer this Agreement in part or in its entirety without the consent of the Client to any third party it may choose.

20.2 The Client shall not assign, novate, mortgage, charge (otherwise than by floating charge) or sub-licence or otherwise delegate any of its rights, or sub-contract or otherwise delegate any of its obligations under this Agreement.

20.3 Fidelis shall be entitled to perform any of the obligations undertaken by it through any other member of its group or through suitably qualified and skilled sub-contractors. Any act or omission of such other member or sub-contractor shall, for the purposes of the Agreement, be deemed to be an act or omission of Fidelis.

**21. Time**

21.1 The times and dates referred to in the Agreement shall be for guidance only and shall not be of the essence of the Agreement and may be varied by mutual agreement between the Parties.

**22. Relationship of the Parties**

Nothing in the Agreement shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual

relationship expressly provided for in the Agreement.

**23. Non-Solicitation**

23.1 Neither Party shall, for the term of the Agreement and for a period of 6 months after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the other Party at any time in relation to the Agreement without the express written consent of that Party.

23.2 Neither Party shall, for the term of the Agreement and for a period of 6 months after its termination or expiry, solicit or entice away from the other Party any customer or client where any such solicitation or enticement would cause damage to the business of that Party without the express written consent of that Party.

**24. Third Party Rights**

24.1 No part of the Agreement shall confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement.

24.2 Subject to Clause 24.1 of these Terms and Conditions, these Terms and Conditions shall continue and be binding on the transferee, successors and assigns of either Party as required.

**25. Notices**

25.1 All notices under the Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

25.2 Notices shall be deemed to have been duly given:

25.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

25.2.2 when sent, if transmitted by e-mail and a successful return receipt is generated; or

25.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

25.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.

In each case notices shall be addressed to the most recent address, or e-mail address notified to the other Party.

**26. Entire Agreement**

26.1 The Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.

26.2 Each Party shall acknowledge that, in entering into the Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in these Terms and Conditions, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

**27. Counterparts**

The Agreement may be entered into in any number of counterparts and by the Parties to it on

separate counterparts each of which when so executed and delivered shall be an original, but all the counterparts together shall constitute one and the same instrument.

**28. Severance**

In the event that one or more of the provisions of the Agreement and/or of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) shall be deemed severed from the remainder of the Agreement and/or these Terms and Conditions. The remainder of the Agreement and/or these Terms and Conditions shall be valid and enforceable.

**29. Dispute Resolution**

29.1 The Parties shall attempt to resolve any dispute arising out of or relating to the Agreement through negotiations between their appointed representatives who have the authority to settle such disputes.

29.2 If negotiations under Clause 29.1 of these Terms and Conditions do not resolve the matter within 10 business days of receipt of a written invitation to negotiate, the parties will attempt to resolve the dispute through mediation in accordance with the Centre of Effective Dispute Resolution (“CEDR”) Rules (as applicable at the commencement date of the mediation).

29.3 The mediator shall be appointed by mutual agreement between the Parties. In the event the Parties fail to agree on the appointment of a mediator within 10 business days of referring the dispute to mediation, either party may, upon giving notice to the other, refer the matter to CEDR to appoint a mediator in accordance with the Model Mediation Procedure.

29.4 Until the Parties have completed the steps referred to in Clauses 29.1 and 29.2, and have failed to resolve the dispute, neither Party may commence formal legal proceedings or arbitration except that either Party may at any time:

29.4.1 seek interim injunctive relief from the courts; and

29.4.2 save where any relevant invoice is subject to a good faith dispute (which shall be dealt with in accordance with the foregoing), commence proceedings or take any other enforcement action in connection with any unpaid invoice.

29.5 Each Party shall bear their own cost in relation the mediation procedure.

**30. Law and Jurisdiction**

30.1 The Agreement and these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

30.2 Subject to the provisions of Clause 29 of these Terms and Conditions, any dispute, controversy, proceedings or claim between the Parties relating to the Agreement or these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.